

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA, . CASE NO. 4:12-CR-639

PLAINTIFF, .

V. . HOUSTON, TEXAS

. TUESDAY, JULY 25, 2023

JEFFREY DEROND KERSEE, . 02:10 P.M. TO 02:16 P.M.

DEFENDANT. .

INITIAL APPEARANCE

SOME PARTIES APPEARING VIA VIDEOCONFERENCE

BEFORE THE HONORABLE ANDREW M. EDISON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE NEXT PAGE

ELECTRONIC RECORDING OFFICER: DANIEL BERGER

CASE MANAGER: NOT IDENTIFIED

OFFICIAL INTERPETER: NONE PRESENT

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Appearances:

For the GOVERNMENT:

**BRIAN ROCK, ESQ.**

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1                   Houston, Texas; Tuesday, July 25, 2023; 02:10 p.m.

2                   **THE COURT:** -- know. If you don't or if you'd like  
3 me to rephrase it, or restate it, I will be happy to do so.

4                   The next thing that we're going to talk about today  
5 is the appointment of counsel. You have the right to be  
6 represented by an attorney at all stages of these criminal  
7 proceedings. And if you cannot afford an attorney, I will be  
8 happy to appoint an attorney for you.

9                   I received a number of financial affidavits from  
10 individuals indicating you want me to appoint an attorney. And  
11 I will do so at the proper time.

12                  Last but not least, we'll talk about whether or not  
13 the Government is requesting that you be detained pending  
14 trial. As a general -- overall, you are innocent until proven  
15 guilty. And as a general rule defendants would be released  
16 from custody pending trial of the case.

17                  Only in rare circumstances, when a Government -- the  
18 Government could show that you were either a risk of flight or  
19 a danger to the community, maybe you'd be held in custody. And  
20 you're entitled to a hearing, at which time the Government  
21 would be required to put on evidence that you are a risk of  
22 flight, or a danger to the community, and there are no  
23 conditions that I could impose, like an ankle monitor or a  
24 curfew, to help alleviate that threat.

25                  At that hearing, your attorney will be permitted to

1 ask questions, call witnesses, and cross examine witnesses of  
2 the other side, as well as make any argument on your behalf.  
3 So we'll talk about that and if we need to set what we call a  
4 detention hearing, that is to determine whether you should be  
5 held in custody pending trial, we'll set that today as well.

6               Okay. With all that said and done, and I will -- let  
7 me call each case. And let me start off by calling *Case 4:12-*  
8 *CR-639-1, United States versus Jeffrey Derond Kersee.*

9               **(Pause in the proceeding.)**

10              **THE COURT:** Who do we have for the Government?

11              **MR. ROCK:** Brian Rock for the Government, your Honor.

12              **THE COURT:** Well, Mr. Kersee, how are you, sir?

13              **DEFENDANT KERSEE:** I'm okay.

14              **THE COURT:** Okay. Well good to see you.

15               So we're here today on what we call a petition for  
16 warrant or summons for a -- a offender under supervision.

17               Have you received a copy of that document? And have  
18 you the opportunity to review it?

19              **DEFENDANT KERSEE:** Yes, your Honor.

20              **(Pause in the proceeding.)**

21              **THE COURT:** Okay. Before I go any further, I want to  
22 make sure, can I have your agreement that we can proceed with  
23 at least me by video here today, sir?

24              **DEFENDANT KERSEE:** Yes.

25              **THE COURT:** Okay.

1           And, Mr. Rock, let me ask you. Can I have your  
2 consent to proceed by video on all the matters that are on the  
3 docket here today?

4           **MR. ROCK:** Of course. Yes, your Honor.

5           **THE COURT:** Okay. Thank you.

6           Mr. Kersee, I have in front of me the petition for  
7 warrant or summons for under supervision. And although I know  
8 you've an opportunity to review it, I am required to go over  
9 that with you.

10          According to the document, you were put on supervised  
11 release on May 14, 2021. There are a couple allegations that  
12 you have violated release.

13          One of them is -- one of the conditions was not to  
14 commit any further violation of law. And the allegation is  
15 that on April 25<sup>th</sup>, 2022, you damaged and destroyed tangible  
16 property, specifically, a window. And that was a violation.

17          In addition, there's an allegation that you committed  
18 a violation of the law by committing an aggravated robbery,  
19 deadly weapon in or about December 23<sup>rd</sup>, 2022.

20          And in addition, there's an allegation that you  
21 violated the law and violated the terms of your supervised  
22 release by assaulting a family member on or about December  
23 23<sup>rd</sup>, 2022.

24          Without saying whether or not those charges are true  
25 or not, because that's not important for today's proceeding, do

1 you agree -- understand what the Government is alleging that  
2 you have done, sir?

3           **DEFENDANT KERSEE:** Yes, your Honor.

4           **THE COURT:** Okay.

5           You've heard me at the outset talk about your basic  
6 rights in connection with matter, including the right to remain  
7 silent.

8           Did you understand those rights as I explained them,  
9 sir?

10          **DEFENDANT KERSEE:** Yes.

11          (**Pause in the proceeding.**)

12          **THE COURT:** Okay. The next thing we need to talk  
13 about is the appointment of counsel. I have received a  
14 financial affidavit from you which indicates that you would  
15 like me to appoint counsel to represent you in connection with  
16 this matter, correct?

17          **DEFENDANT KERSEE:** Correct.

18          **THE COURT:** Based on the representations you provided  
19 in that financial affidavit, I find that you are financially  
20 eligible for appointment of counsel. And I'll appoint the  
21 United States Federal Public Defender for the Southern District  
22 of Texas, that office, to represent you.

23          I see Mr. Rosa-Amberg (phonetic) is there. And I'll  
24 let him make his formal introduction for the record.

25          **MR. ROSA-AMBERG:** Good afternoon, your Honor.

1 Alexander (phonetic) Ambrose on behalf of the Defendant.

2           **THE COURT:** Good to see you.

3           **MR. ROSA-AMBERG:** Likewise.

4           **THE COURT:** Okay. Since this is the first appearance  
5 between the Defendant and Government, Defendant's counsel and  
6 the Government, I'm required by Rule 5(f) of the Federal Rules  
7 of Criminal Procedure, to inform Mr. Rock as counsel for the  
8 Government, that your responsibility to comply with the  
9 disclosure obligations set forth by the United States Supreme  
10 Court in the landmark case of Brady versus Maryland and its  
11 progeny.

12           As you're well aware, failure to abide those  
13 disclosure obligations, may result in sanctions, contempt  
14 proceedings, exclusion of evidence, jury instruction, and/or  
15 the dismissal or charges. I'll enter a formal written order to  
16 that effect later today because the rules require me to do so.

17           And Mr. Rock, from now on out today, I'm going to  
18 simply ask you in an effort to try to get a little quicker, if  
19 you understand your Rule 5(f) obligations. And those 5(f)  
20 obligations are the disclosure obligations under *Brady versus*  
21 *Maryland*.

22           Do you understand that, sir?

23           **MR. ROCK:** Yes, sir.

24           **(Pause in the proceeding.)**

25           **THE COURT:** Okay. Mr. Rosa-Amberg, from taking a

1 look at the documentation, it looks like Judge Crane to whom  
2 this matter has been referred to, asks issuance of a warrant  
3 and no bond.

4 I've been given a final revocation date -- hearing  
5 date, of August the 2<sup>nd</sup> at 9:30 a.m., before Judge Crane here  
6 at the Houston courthouse.

7           With all that said, is there anything else that we  
8 need to address today, other than have you, or someone from  
9 your office, to get ready to prepare Mr. Kersee for that August  
10 2<sup>nd</sup> final revocation hearing before Judge Crane?

11                   **MR. ROSA-AMBERG:** Nothing, your Honor. We'll -- we  
12 will be ready.

13                   **THE COURT:** Okay. Mr. Rock, anything further?

14 MR. ROCK: No, your Honor.

15 THE COURT: Okay.

16 Mr. Kersee, pursuant to Judge Crane's instructions,  
17 I'm going to remand you to the custody of the United States  
18 Marshal pending the August 2<sup>nd</sup> hearing before Judge Crane.

19 And I know the Federal Public Defender's Office will  
20 be ready to go. Have a good day, sir. And then you're  
21 excused. Thank you very much.

(This proceeding was adjourned at 02:16 p.m.)

23

\* \* \* \* \*

1 CERTIFICATION

3 I certify that the foregoing is a correct transcript from the  
4 electronic sound recording of the proceedings in the above-  
5 entitled matter.

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8

/s/ Cheryl L. Battaglia

August 31, 2023

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